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8 Attorneys for Plaintiff
9 Our Clean Waters

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 OUR CLEAN WATERS,

13 Plaintiff,

14 v.

15 LMC ENTERPRISES dba Flo-Kem,
16 Inc., a California corporation,

17 Defendant.

Case No. 2:17-cv-08149 –RSWL-
(RAOx)

**NOTICE OF SETTLEMENT;
REVISED CONSENT DECREE;
AND STIPULATION TO EXTEND
TIME TO RESPOND TO
COMPLAINT AND REQUEST
FOR STAY**

18 **PLEASE TAKE NOTICE** that the parties have reached a settlement
19 resolving all claims in this action. The settlement is contingent upon the expiration
20 of the federal agencies' 45-day review period required by the Federal Water
21 Pollution Control Act, 33 U.S.C. § 1365(c)(2).¹

22 **PLEASE TAKE FURTHER NOTICE** that, in accordance with federal law,
23 no judgment disposing of this action may be entered prior to 45 days following the
24 receipt of the proposed settlement agreement by the United States Department of
25 Justice and the national and Region IX offices of the United States Environmental

26 ¹ Title 33 of the United States Code, Section 1365(c)(2) provides that "[n]o
27 consent judgment shall be entered in an action in which the United States is not a
28 party prior to 45-days following the receipt of a copy of the proposed consent
judgment by the Attorney General and the Administrator."

1 Protection Agency. *See* 40 C.F.R. § 135.5 (requiring the parties to provide notice to
2 the court of the 45-day agency review period under 33 U.S.C. § 1365(c)). Such
3 notice was effective on November 29, 2017. The review period ends on January 15,
4 2018. If any of the reviewing agencies object to the proposed Settlement
5 Agreement, the parties would require additional time to meet and confer and attempt
6 to resolve the agencies' concerns. At the end of the 45-day review period, the
7 parties will file either a request for Entry of the Proposed Consent Decree or a notice
8 that the agencies objected to the proposed Consent Decree.

9 In light of the settlement agreement entered into by the parties and the need to
10 await the conclusion of the agencies' 45-day review period, Plaintiff Our Clean
11 Waters and Defendant LMC Enterprises dba Flo-Kem, Inc. ("Flo-Kem") through
12 their respective counsel, stipulate and agree as follows:

13 **WHEREAS**, on November 8, 2017, OUR CLEAN WATERS filed its
14 complaint in this action;

15 **WHEREAS**, the parties successfully completed and executed a Proposed
16 Consent Decree on November 8, 2017;

17 **WHEREAS**, on the Proposed Consent Decree was submitted to the U.S. EPA
18 and the U.S. Department of Justice effective November 29, 2017; and the
19 Department of Justice objected to the structure of the Proposed Consent Decree;

20 **WHEREAS**, a Revised Proposed Consent Decree was submitted to the US
21 EPA and the US Department of Justice as of December 19, 2017, and the parties
22 must now await the completion of the 45-day review period set forth at 40 C.F.R. §
23 135.5 and 33 U.S.C. § 1365(c)(2);

24 **WHEREAS**, in the interests of efficiency and judicial economy, the parties
25 wish to preserve costs incurred in this matter pending the agencies review of the
26 executed settlement agreement;

1 **WHEREAS**, in light of the parties' entering into the Revised Proposed
2 Consent Decree and the need to allow the federal agencies 45 days to review the
3 Proposed Consent Decree, the parties further request that the Court immediately stay
4 all proceedings in this action until February 15, 2018, by which date the parties
5 expect to have filed a Request for Entry of the Proposed Consent Decree with the
6 Court.

7 **THEREFORE, IT IS HEREBY STIPULATED** by and between Our Clean
8 Waters and Flo-Kem, through their respective counsel of record, that the Court
9 extend the time for Flo-Kem to respond to the Complaint until February 15, 2018
10 and stay all proceedings in this action until February 15, 2018, and, with the
11 exception of this Stipulation, vacate all deadlines and dates currently scheduled by
12 the Court.

13
14
15 Dated: December 18, 2017

Respectfully submitted,

Levitt Law, A Professional Corporation
Scott L. Levitt, Esq.

/s/ Scott L. Levitt
Attorney for Plaintiff
OUR CLEAN WATERS

16
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18
19 Dated: December 18, 2017

LOEB & LOEB LLP

/s/ Albert M. Cohen
Attorney for Defendant
LMC Enterprise dba Flo-Kem, Inc.

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[PROPOSED] ORDER

This Court hereby orders that the time for LMC Enterprises to answer, move or otherwise respond to Plaintiff's Complaint shall be extended to February 15, 2018.

Dated: December __, 2017

USDC Judge of Central District of California

CERTIFICATE OF SERVICE

I certify that on December 19, 2017, I caused the foregoing **NOTICE OF SETTLEMENT; STIPULATION TO EXTEND TIME TO RESPOND TO COMPLAINT AND REQUEST FOR STAY** to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notifications of such filings to all parties.

DATED: December 19, 2017

LEVITT LAW, APC

By: /s/ Scott L. Levitt

1 ALBERT M. COHEN (SBN 141525)
LOEB & LOEB LLP
2 10100 Santa Monica Blvd., Suite 2200
Los Angeles, CA 90067
3 Telephone: 310.282.2000
Facsimile: 310.282.2200
4 acohen@loeb.com

5 Attorneys for Defendant
LMC Enterprises dba Flo-Kem, Inc.
6
7

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10 OUR CLEAN WATERS, a non-profit
corporation,

11 Plaintiff,

12 v.

13 LMC ENTERPRISES dba Flo-Kem,
14 Inc., a California corporation,

15 Defendant.
16

Case No.: 2:17-cv-8149-RSWL-RAO

**REVISED [PROPOSED]
CONSENT DECREE**

Complaint Filed: 11/8/17

17 **CONSENT DECREE**

18 This Consent Decree ("Consent Decree") is entered into between Our Clean
19 Waters ("OCW") and LMC Enterprises dba Flo-Kem, Inc. ("Flo-Kem") (all parties
20 collectively are referred to as the "SETTLING PARTIES") with respect to the
21 following facts and objectives:

22 **RECITALS**

23 **WHEREAS**, OCW is a 501(c)(3) non-profit, public benefit corporation
24 organized under the laws of the State of California, dedicated to working with
25 communities to improve the social and natural environment.

26 **WHEREAS**, Flo-Kem leases and operates a facility located at 19402 South
27 Susana Road, Rancho Dominguez, CA 90221 (the "Facility"). Through June 30,
28

1 2015, the Facility has operated pursuant to State Water Resources Control Board
2 Water Quality Order No. 97-03-DWQ, National Pollutant Discharge Elimination
3 System General Permit No. CAS000001, Waste Discharge Requirements for
4 Discharges of Storm Water Associated with Industrial Activities Excluding
5 Construction Activities. Beginning on July 1, 2015, the Facility has operated
6 pursuant to State Water Resources Control Board Water Quality Order No. 2014-
7 0057-DWQ, National Pollutant Discharge Elimination System General Permit No.
8 CAS000001 (hereinafter "General Permit"). A map of the Facility is attached
9 hereto as Exhibit A and incorporated by reference;

10 **WHEREAS**, on or about August 10, 2017, OCW provided Flo-Kem with a
11 Notice of Violations and Intent to File Suit ("60-Day Notice Letter") under Section
12 505 of the Federal Water Pollution Control Act (the "Act" or "Clean Water Act"),
13 33 U.S.C. § 1365;

14 **WHEREAS**, on November 8, 2017, OCW filed its Complaint in the United
15 States District Court for the Central District of California (Our Clean Waters v.
16 LMC Enterprises dba Flo-Kem, Inc. ("Flo-Kem) Case No. 2:17-cv-8149. A true
17 and correct copy of the Complaint, including the 60-Day Notice Letter, is attached
18 hereto as Exhibit B and incorporated by reference;

19 **WHEREAS**, Flo-Kem denies any and all of OCW's claims in its 60-Day
20 Notice Letter and Complaint;

21 **WHEREAS**, OCW and Flo-Kem, through their authorized representatives
22 and without either adjudication of OCW's claims or admission by Flo-Kem of any
23 alleged violation or other wrongdoing, have chosen to resolve in full OCW's
24 allegations in the 60-Day Notice Letter and Complaint through settlement and avoid
25 the cost and uncertainties of further litigation; and

26 **WHEREAS**, OCW and Flo-Kem have agreed that it is in their mutual interest
27 to enter into this Consent Decree setting forth the terms and conditions appropriate
28 to resolving OCW's allegations set forth in the 60-Day Notice Letter and Complaint.

1 **NOW, THEREFORE, IT IS HEREBY STIPULATED BETWEEN THE**
2 **SETTLING PARTIES AND IS HEREBY ORDERED AND DECREED BY THIS**
3 **COURT AS FOLLOWS:**

4 1. **Jurisdiction.** This Court has jurisdiction over the subject matter of this
5 action pursuant to Section 505(a) of the Clean Water Act, 33 U.S.C. §135(a);

6 2. **Venue.** Venue is proper in the Central District of California pursuant
7 to Section 505(c)(1) of the Clean Water Act, 33 U.S.C. §1365(c)(1) because the Flo-
8 Kem facility is located within this District;

9 3. **Effective Date.** The term “Effective Date,” as used in this Consent
10 Decree, shall mean the date that this Consent Decree is entered by the Court.

11 4. **Termination Date.** The term “Termination Date” as used in this
12 Consent Decree, shall mean June 30, 2019.

13 5. **Stipulation to Dismiss and [Proposed] Order.** Within ten (10)
14 calendar days of the Agency Approval Date, as defined in Paragraph 16 below,
15 OCW shall file a Stipulation to Dismiss and [Proposed] Order thereon pursuant to
16 Federal Rule of Civil Procedure 41(a)(2) with the United States District Court for
17 the Central District of California (“District Court”), with this Consent Decree
18 attached and incorporated by reference, specifying that OCW is dismissing with
19 prejudice all claims in OCW’s Complaint.

20
21 **COMMITMENTS OF FLO-KEM**

22 6. **Compliance with General Permit.** Flo-Kem agrees to operate the
23 Facility in compliance with the applicable requirements of the General Permit and
24 the Clean Water Act.

25 7. **Implemented Storm Water Controls.** Flo-Kem shall maintain in
26 good working order all storm water collection systems at the Facility currently
27 installed or to be installed pursuant to this Consent Decree, including but not limited
28 to, existing housekeeping measures.

1 **8. Additional Structural Best Management Practices.** By the Effective
2 Date, Flo-Kem shall implement the following structural best management practices
3 (“BMPs”) to improve the storm water pollution prevention measures at the Facility:

4 (a) Assure that the sections of the Facility identified on Exhibit A
5 have been paved with asphalt in a sufficient manner to allow for the cleaning of the
6 surface;

7
8 (b) Purchase an industrial sweeper to sweep the facility and
9 implement procedures to sweep weekly and, to the extent feasible, prior to
10 oncoming storms;

11 (c) Assure that all forklifts maintained by the company at the
12 Facility have low-zinc tires (i.e. tires with less than 2.1% zinc) as represented by the
13 tire dealer or manufacturer of the tires;

14 (d) Maintain at least 12 each, 4” x 72” weighted zeolite wattles at
15 the facility and distribute them in the flow paths of storm water run-off prior to
16 oncoming storms.

17
18 **9. Confirmation of New Structural BMPs.** Within 30 days of the
19 Effective Date, Flo-Kem shall confirm to OCW the installation of the measures
20 described above in Paragraph 8.

21
22 **10. Monitoring of Storm Water Discharges.** Flo-Kem shall collect and
23 analyze storm water discharges from the Facility in accordance with the General
24 Permit and this Consent Decree for, at a minimum, pH, total suspended solids, oil
25 and grease, nitrate + nitrite as nitrogen, and zinc.

26 **11. Monitoring Results.** Results from the Facility’s sampling and analysis
27 during the term of this Consent Decree shall be uploaded to the State Water
28

1 Resources Control Board's ("State Board") Storm Water Multiple Application and
2 Report Tracking System ("SMARTS") in accordance with the requirements of the
3 General Permit.

4
5 12. **Additional Measures.** If the Facility's storm water sampling results
6 during the 2017-2018 and/or 2018-2019 reporting years indicate that the average of
7 the analytical results for a particular parameter indicates that storm water discharges
8 from the Facility exceed the annual NALs (as set forth in the General Permit) or if
9 two or more analytical results from samples taken for any parameter within the
10 2017-2018 or 2018-2019 reporting years exceed the instantaneous maximum NAL,
11 Flo-Kem agrees to take responsive actions to improve its storm water management
12 practices to address exceedances of the NAL attributable to its industrial sources,
13 including re-evaluating its structural and non-structural BMPs and considering
14 implementing additional BMPs aimed at reducing levels observed in storm water
15 samples.

16 13. **Amendment of Storm Water Pollution Prevention Plan**
17 **("SWPPP").** By sixty (60) days after the Effective Date, Flo-Kem shall have
18 amended the Facility's SWPPP to incorporate all changes, improvements, sample
19 log forms, and best management practices set forth in or resulting from this Consent
20 Decree. Flo-Kem shall ensure that all maps, tables, and text comply with the
21 requirements of the General Permit. Flo-Kem shall ensure that the SWPPP
22 describes all structural and non-structural BMPs and details the measures to be
23 installed.

24 14. **Reimbursement for Fees, Costs, and Expenses.** In recognition of the
25 good faith efforts by Flo-Kem to comply with all aspects of the General Permit and
26 the Clean Water Act, and in lieu of payment by Flo-Kem of any penalties, which
27 have been disputed but may have been assessed in this action if it had been
28

1 adjudicated adverse to FLO-KEM, the SETTLING PARTIES agree that Flo-Kem
2 will pay the sum of \$34,000.00 to OCW for reimbursement of all administrative, out
3 of pocket, consulting, filing and legal and expert fees. In addition such payment
4 will provide reimbursement to OCW for monitoring Flo-Kem's operations during
5 the duration listed in this Consent Decree, as described as the Termination Date.
6 Payment shall be mailed to Levitt Law, APC – Client Trust, as follows: 311 Main
7 Street, #8, Seal Beach, CA 90740. Payment shall be made by Flo-Kem to OCW
8 within five (5) calendar days of the District Court's entry of the Order dismissing
9 the action described in Paragraph 2 of this Consent Decree. Flo-Kem shall copy
10 OCW with any correspondence.

11
12 15. **Mitigation Payment.** In recognition of the good faith efforts by Flo-
13 Kem to comply with all aspects of the General Permit and the Clean Water Act, and
14 in lieu of payment by Flo-Kem of any penalties, which have been disputed but may
15 have been assessed in this action if it had been adjudicated adverse to Flo-Kem, the
16 SETTLING PARTIES agree that Flo-Kem will pay the sum of \$5,000.00 to the
17 Rose Foundation for Communities and the Environment ("Rose Foundation") for
18 the sole purpose of providing environmentally beneficial projects relating to water
19 quality improvements in the Los Angeles River Reach 2 watershed. Payment shall
20 be mailed to: Rose Foundation, 1970 Broadway, #600, Oakland, CA 94612-2218,
21 Attn: Tim Little, Executive Director. (The Rose Foundation is a tax-exempt
22 organization under Section 501(c)(3) of the Internal Revenue Code. Our Tax ID
23 number is 94-3179772. Donations to the Rose Foundation are tax-deductible as
24 allowed by law). Payment shall be made by Flo-Kem to Rose Foundation within
25 five (5) calendar days of the District Court's entry of the Order dismissing the action
26 described in this Consent Decree. Flo-Kem shall copy OCW with any
27 correspondence and check copy.
28

1 **16. Review by Federal Agencies.** OCW shall submit this Consent Decree
2 to the U.S. EPA and the U.S. Department of Justice (hereinafter, the "Agencies") via
3 certified mail, return receipt requested, within five (5) days after the Effective Date
4 of this Consent Decree for review consistent with 40 C.F.R. § 135.5. The Agencies'
5 review period expires forty-five (45) days after receipt of the Consent Decree by
6 both Agencies, as evidenced by the return receipts and the confirming
7 correspondence of DOJ. In the event that the Agencies comment negatively on the
8 provisions of this Consent Decree, OCW and Flo-Kem agree to meet and confer to
9 attempt to resolve the issue(s) raised by the Agencies. If OCW and Flo-Kem are
10 unable to resolve any issue(s) raised by the Agencies in their comments, OCW and
11 Flo-Kem agree to expeditiously seek a settlement conference with the Magistrate
12 Judge assigned to this matter to resolve the issue(s). If the SETTLING PARTIES
13 cannot resolve the issue(s) through a settlement conference, this Consent Decree
14 shall be null and void. The date of (a) the Agencies' unconditioned approval of this
15 Consent Decree, (b) the expiration of the Agencies' review period, or (c) the
16 SETTLING PARTIES' resolution of all issues raised by the Agencies, whichever is
17 earliest, shall be defined as the "Agency Approval Date."

18 **17. No Admission or Finding.** This Consent Decree nor any payment
19 pursuant to the Consent Decree nor compliance with this Consent Decree shall
20 constitute evidence or be construed as a finding, adjudication, or acknowledgment
21 of any fact, law or liability, nor shall it be construed as an admission of violation of
22 any law, rule or regulation. However, this Consent Decree may constitute evidence
23 in actions seeking compliance with this Consent Decree. Evidence of the payment
24 amount may be used to enforce the payment provisions of this Consent Decree.

25 **18. Mutual Release of Liability and Covenant Not to Sue.** In
26 consideration of the above, and except as otherwise provided by this Consent
27 Decree, the SETTLING PARTIES hereby fully release each other and their
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1 respective parents, affiliates, subsidiaries, divisions, insurers, successors, assigns,
 2 and current and former employees, attorneys, officers, directors, members,
 3 shareholders, and agents from any and all claims and demands of any kind, nature,
 4 or description whatsoever, known and unknown, and from any and all liabilities,
 5 damages, injuries, actions or causes of action, either at law or in equity, which it
 6 may presently have, or which may later accrue or be acquired by it, arising from the
 7 Complaint or Notice Letters, including, without limitation, all claims for injunctive
 8 relief, damages, penalties, fines, sanctions, mitigation, fees (including fees of
 9 attorneys, experts, and others), costs, expenses or any other sum incurred or claimed
 10 or which could have been claimed in the Complaint or Notice Letters, for the
 11 alleged failure of Defendant to comply with the Clean Water Act at the Facility, up
 12 to and including the Termination Date.

13
 14 19. **1542 Acknowledgment.** The SETTLING PARTIES acknowledge that
 15 they are familiar with section 1542 of the California Civil Code, which provides:

16 A general release does not extend to claims which the creditor does not
 17 know or suspect to exist in his or her favor at the time of executing the
 18 release, which if known by him or her must have materially affected his
 19 or her settlement with the debtor.

20 The SETTLING PARTIES hereby waive and relinquish any rights or benefits
 21 they may have under California Civil Code section 1542 with respect to any other
 22 claims against each other arising from, or related to, the allegations and claims as set
 23 forth in the 60-Day Notice Letter and Complaint at the Facility up to and including
 24 the Termination Date of this Consent Decree.

25 20. **No Further Actions.** For the period beginning on the Effective Date
 26 and ending on the Termination Date, neither OCW, nor its officers, executive staff,
 27 members of its Steering Committee or counsel will bring any enforcement action or
 28 pursue or take any action with respect to any statutory or common law claim, to the

1 full extent that any of the foregoing were or could have been asserted by OCW
2 against Flo-Kem or the RELEASEES in the Complaint, the Notice, or covered by
3 this AGREEMENT, except as provided for in this AGREEMENT nor will they file
4 or support other lawsuits, by contacting, providing financial assistance or personnel
5 time or taking any other affirmative actions, against or relating to the Facility by
6 other groups or individuals who would rely upon the citizen suit provision of the
7 Clean Water Act or any other statutory or common law claim, to challenge the
8 Facility's compliance with the Clean Water Act, or the General Permit.

9
10 21. **Releases.** This AGREEMENT is a final and binding resolution
11 between Plaintiff, on his own behalf, and on behalf of the public and in the public
12 interest, and Flo-Kem, and each of their respective parents, affiliates, subsidiaries,
13 divisions, insurers, successors, assigns, and current and former employees,
14 attorneys, officers, directors, members, shareholders, and agents ("RELEASEES")
15 regarding the matters addressed in this AGREEMENT and shall have preclusive
16 effect such that no other person or entity, whether purporting to act in his, her or its
17 interests or the public interest shall be permitted to pursue and/or take action with
18 respect to any violation of the CWA that was alleged in the Complaint, that could
19 have been brought pursuant to the Notice or that is addressed by this AGREEMENT

20 22. **Dispute Resolution Procedures.** Except as specifically noted herein,
21 any disputes with respect to any of the provisions of this Consent Decree shall be
22 resolved through the following procedure. The SETTLING PARTIES agree to first
23 meet and confer in good faith to resolve any dispute arising under this Consent
24 Decree. In the event that such disputes cannot be resolved through this meet and
25 confer process, the SETTLING PARTIES agree to request a settlement meeting
26 before the Magistrate Judge assigned to this action. In the event that the
27 SETTLING PARTIES cannot resolve the dispute by the conclusion of the
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1 settlement meeting with the Magistrate Judge, the SETTLING PARTIES agree to
2 submit the dispute via motion to the District Court.

3 **GENERAL PROVISIONS**

4 23. **Force Majeure.** Flo-Kem will notify OCW if timely implementation
5 of Flo-Kem's respective duties under this Consent Decree becomes impossible due
6 to circumstances beyond the control of Flo-Kem or its agents, and which could not
7 have been reasonably foreseen and prevented by the Flo-Kem's exercise of due
8 diligence. Any delays due to Flo-Kem's respective failure to make timely and bona
9 fide applications and to exercise diligent efforts to comply with the terms in this
10 Consent Decree will not, in any event, be considered to be circumstances beyond the
11 Flo-Kem's control.

12 (a) If Flo-Kem claims impossibility, it will notify OCW in writing
13 within twenty (20) business days of the date that Flo-Kem discovers the event or
14 circumstance that caused or would cause non-performance with the terms of this
15 Consent Decree, or the date that Flo-Kem should have known of the event or
16 circumstance by the exercise of due diligence. The notice must describe the reason
17 for the non-performance and specifically refer to this section of this Consent Decree.
18 The notice must describe the anticipated length of time the non-performance may
19 persist, the cause or causes of the non-performance, the measures taken or to be
20 taken by Flo-Kem to prevent or minimize the non-performance, the schedule by
21 which the measures will be implemented, and the anticipated date of compliance.
22 Flo-Kem will adopt all reasonable measures to avoid and minimize such non-
23 performance.
24

25 (b) The SETTLING PARTIES will meet and confer in good faith
26 concerning the non-performance and, if the SETTLING PARTIES concur that
27 performance was or is impossible, despite the timely good faith efforts of Flo-Kem,
28 due to circumstances beyond the control of Flo-Kem that could not have been

1 reasonably foreseen and prevented by the exercise of due diligence by Flo-Kem,
2 new performance deadlines will be established.

3
4 (c) If OCW disagrees with Flo-Kem's notice, or in the event that the
5 SETTLING PARTIES cannot timely agree on the terms of new performance
6 deadlines or requirements, either SETTLING PARTY may invoke the dispute
7 resolution process described in Paragraph 22 of this Consent Decree. In such
8 proceeding, Flo-Kem will bear the burden of proving that any delay in performance
9 of any requirement of this Consent Decree was caused or will be caused by force
10 majeure and the extent of any delay attributable to such circumstances.

11 24. **Construction.** The language in all parts of this Consent Decree shall
12 be construed according to its plain and ordinary meaning, except as to those terms
13 defined by law, in the General Permit, and the Clean Water Act or specifically
14 herein.

15 25. **Choice of Law.** This Consent Decree shall be governed by the laws of
16 the United States, and where applicable, the laws of the State of California.

17
18 26. **Severability.** In the event that any provision, section, or sentence of
19 this Consent Decree is held by a court to be unenforceable, the validity of the
20 enforceable provisions shall not be adversely affected.

21 27. **Correspondence.** All notices required herein or any other
22 correspondence pertaining to this Consent Decree shall be sent by regular, certified,
23 overnight mail, or e-mail as follows:

24 If to OCW:

Copy to:
Scott L. Levitt, Esq.
LEVITT LAW, APC
311 Main Street, Suite #8
Seal Beach, CA 90740
(562) 493-7548

25
26
27
28 If to Flo-Kem:

Copy to:

1 John Grimes
2 LMC Enterprises d/b/a Flo-Kem
3 19402 South Susana Road
4 Rancho Dominguez, CA 90221

Albert M. Cohen
acohen@loeb.com
Loeb & Loeb LLP
10100 Santa Monica Boulevard
Suite 2200
Los Angeles, CA 90067
(310) 282-2228

5 Notifications of communications shall be deemed submitted on the date that
6 they are e-mailed, postmarked and sent by first-class mail or deposited with an
7 overnight mail/delivery service. Any change of address or addresses shall be
8 communicated in the manner described above for giving notices.

9 28. **Counterparts.** This Consent Decree may be executed in any number
10 of counterparts, all of which together shall constitute one original document.
11 Telecopied, scanned (.pdf), and/or facsimiled copies of original signature shall be
12 deemed to be originally executed counterparts of this Consent Decree.

13 29. **Assignment.** Subject only to the express restrictions contained in this
14 Consent Decree, all of the rights, duties and obligations contained in this Consent
15 Decree shall inure to the benefit of and be binding upon the SETTLING PARTIES,
16 and their successors and assigns.

17 30. **Modification of the Agreement.** This Consent Decree, and any
18 provisions herein, may not be changed, waived, discharged or terminated unless by
19 a written instrument, signed by the SETTLING PARTIES.

20 31. **Full Settlement.** This Consent Decree constitutes a full and final
21 settlement of this matter. It is expressly understood and agreed that the Consent
22 Decree has been freely and voluntarily entered into by the SETTLING PARTIES
23 with and upon advice of counsel.

24 32. **Integration Clause.** This is an integrated Consent Decree. This
25 Consent Decree is intended to be a full and complete statement of the terms of the
26 agreement between the SETTLING PARTIES and expressly supersedes any and all
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28

prior oral or written agreements covenants, representations and warranties (express or implied) concerning the subject matter of this Consent Decree.

33. **Authority.** The undersigned representatives for OCW and Flo-Kem each certify that he/she is fully authorized by the party whom he/she represents to enter into the terms and conditions of this Consent Decree.

37. **Continuing Jurisdiction.** This Court shall retain jurisdiction to enforce the terms of the Consent Decree.

The SETTLING PARTIES hereby enter into this Consent Decree, Order and Final Judgment and submit it to the Court for its approval and entry as a final judgment,

| | |
|---|---|
| By: <u>[Signature]</u> Name: _____ Title: <u>Chief Operating Officer</u> Date: <u>12/18/17</u> | OUR CLEAN WATERS By: _____ Name: _____ Title: <u>Executive Director</u> Date: <u>12/14/17</u> |
| APPROVED AS TO FORM: For: Defendant LOEB & LOEB LLP By: <u>[Signature]</u> Name: <u>Albert M. Cohen</u> Date: <u>12/18/17</u> | For: Plaintiff LEVITT LAW By: <u>[Signature]</u> Name: <u>Scott L. Levitt</u> Date: <u>12/14/2017</u> |

IT IS SO ORDERED.

Date: _____

 Honorable
 United States District Court Judge
 Central District of California

prior oral or written agreements covenants, representations and warranties (express or implied) concerning the subject matter of this Consent Decree.

33. **Authority.** The undersigned representatives for OCW and Flo-Kem each certify that he/she is fully authorized by the party whom he/she represents to enter into the terms and conditions of this Consent Decree.

37. **Continuing Jurisdiction.** This Court shall retain jurisdiction to enforce the terms of the Consent Decree.

The SETTLING PARTIES hereby enter into this Consent Decree, Order and Final Judgment and submit it to the Court for its approval and entry as a final judgment,

| | | | |
|------------------------------|--|----------------------------------|--|
| | | OUR CLEAN WATERS | |
| By: _____ | | By: <u>J. P. Murphy</u> | |
| Name: _____ | | Name: _____ | |
| Title: _____ | | Title: <u>Executive Director</u> | |
| Date: _____ | | Date: <u>12/18/17</u> | |
| APPROVED AS TO FORM: | | | |
| For: Defendant | | For: Plaintiff | |
| LOEB & LOEB LLP | | LEVITT LAW | |
| By: _____ | | By: <u>Scott L. Levitt</u> | |
| Name: <u>Albert M. Cohen</u> | | Name: <u>Scott L. Levitt</u> | |
| Date: _____ | | Date: <u>12/14/2017</u> | |

IT IS SO ORDERED.

Date: _____

Honorable _____
United States District Court Judge
Central District of California

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CERTIFICATE OF SERVICE

I certify that on 12/19/17 I caused the foregoing **CONSENT DECREE** to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notifications of such filings to all parties.

DATED: 12/19/17

LOEB & LOEB LLP

By: /s/ Albert M. Cohen